



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,295	07/14/2003	Michael Lee	NKTZ 2 00061	6308

7590 02/11/2005

Scott A. McCollister, Esq.
Fay, Sharpe, Fagan, Minnich & McKee, LLP
7th Floor
1100 Superior Avenue
Cleveland, OH 44114-2518

EXAMINER

BLAU, STEPHEN LUTHER

ART UNIT PAPER NUMBER

3711

DATE MAILED: 02/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/619,295

Applicant(s)

LEE, MICHAEL

Examiner

Stephen L. Blau

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6,7,9,10 and 20-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6,7,9,10 and 20-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 6 claims a club yet in claim 20 which it depends on a head is being claimed. In claim 6 it is uncertain what is being claimed.
3. The change to claim 9 is agreed with and the rejection under 35 U.S.C. 112, second paragraph, for claim 9 is removed.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
5. Claims 7, 20, 22-24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Golden in view of Viollaz.

Golden discloses a blade surface being substantially parallel to a front surface, a muscle back surface defining a cavity, a cavity have one or more holes to fill the cavity (Fig. 8A, Col. 6, Lns. 41-50), a head being formed of a metal (Col. 6, Lns. 51-61) and injecting a second material in a cavity (Col. 6, Lns. 41-50).

Golden lacks a cavity not being visible from an exterior of a club and an insert being foam. Viollaz discloses a cavity not visible from an exterior of a club (Figs. 4-5) and a cavity filled with a foamed urethane in the form of polyurethane (Col. 2, Lns. 46-50). In view of the patent of Viollaz it would have been obvious to modify the head of Golden to have the holes which allow filling a cavity filled such that a cavity is not being visible from an exterior of a club in order to prevent the filling material from inadvertently exiting the cavity. In view of the patent of Viollaz it would have been obvious to modify the head of Golden to have the cavity filled with foamed polyurethane in order to provide vibration dampening to a head at impact and in order to utilize a shock absorption material placed inside heads used in the market place.

6. Claims 6, 10 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elkins in view of Viollaz.

Elkins discloses a muscle back surface having an upper ledge that generally follows the contour of the top edge, and a muscle back portion covering at least half of the surface area of the rear surface (Fig. 1).

Elkins lacks a cavity disposed in a muscle back portion with the cavity not visible from the exterior of a club. Viollaz discloses a cavity not visible from an exterior of a club

(Figs. 4-5) and a cavity filled with a foamed urethane in the form of polyurethane (Col. 2, Lns. 46-50). In view of the patent of Viollaz it would have been obvious to modify the head of Elkins to have the cavity filled with foamed polyurethane in order to provide vibration dampening to a head at impact and in order to utilize a shock absorption material placed inside heads used in the market place. In view of the patent of Viollaz it would have been obvious to modify the head of Elkins to have a cavity not being visible from an exterior of a club in order to prevent the filling material from inadvertently exiting the cavity.

7. Claims 9, 21, and 25 rejected under 35 U.S.C. 103(a) as being unpatentable over Golden in view of Viollaz as applied to claims 7, 20, 22-24 and 26 above, and further in view of Motomiya.

Golden lacks an elastomer filling a cavity. Motomiya discloses filling a sealed space with an elastic filler material such as foamed urethane and rubber (Col. 2, Lns. 14-16). In view of the patent of Motomiya it would have been obvious to modify the head of Golden to have a polyurethane being a high rebound foamed elastomer filling a cavity in order to utilize a type of urethane shock absorption material used in the market place inserted in cavities of heads.

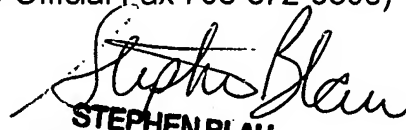
Response to Arguments

8. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. Due to the new grounds of rejection the finality of the case has been removed.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve Blau whose telephone number is (571) 272-4406. The examiner is available Monday through Friday from 8 a.m. to 4:30 p.m.. If the examiner is unavailable you can contact his supervisor Greg Vidovich whose telephone number is (571) 272-4415. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0858. (TC 3700 Official Fax 703-872-9306)

slb/ 9 February 2005


STEPHEN BLAU
PRIMARY EXAMINER